

EXHIBIT 1

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL TPS ALLIANCE, *et. al.*,

Plaintiff,

v.

KRISTI NOEM, in her official capacity as
Secretary of Homeland Security, *et. al.*,

Defendants.

Case No. 3:25-cv-1766-EMC

Judge: Hon. Edward M. Chen

DECLARATION OF KEVIN MARBY

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No. 3:25-cv-1766-EMC

1 I, Kevin Marbray, based upon my personal knowledge and information made known to me in the
2 course of my official employment hereby declare, to the best of my knowledge, information, and belief,
3 as follows relating to the above-captioned matter:

4 1. I am employed with the U.S. Department of Homeland Security (“DHS”), as the Network
5 Operations Security Branch (NOSC) Data Acquisition Manager within the Office of the Chief Information
6 Officer (“OCIO”). I am a member of the DHS NOSC Cyber Data Acquisitions team responsible for the
7 retrieval of data from DHS personnel accounts for litigation purposes. I have held this position since
8 March 2015.

9 2. OCIO uses a standard “OCIO Data Request Form” for all users to request data pulls. On
10 May 12, 2025 at approximately 11:16 am, I received a completed data request form from the Office of
11 General Counsel (OGC) for National TPS Alliance v. Noem, Case No. 25-cv-01766-EMC (the “Initial
12 Request”), asking me to search:

13 a. all emails, calendars, One Drive Folders—which is the cloud equivalent of a hard drive
14 search—and Teams Chats,

15 b. for each of the following DHS HQ custodians: Benjamine C. Huffman, Corey
16 Lewandowski, James Percival, Joseph Guy, Joseph Mazzara, Kristi Noem, Robert Law, Tony Pham,
17 Troup Hemenway, and Troy Edgar;

18 c. that hit on the following search terms (the “Venezuela Search Terms”) and were dated
19 between Jan. 20, 2025 and Feb. 5, 2025:

20 i. [“Temporary Protected Status” or “TPS” or 1254a] AND [Venezuela]

21 ii. [“Temporary Protected Status” or “TPS” or 1254a] AND [“Tren de Aragua” or “Tren de
22 Agua” or TdA]

23 iii. [“Temporary Protected Status” or “TPS” or 1254a] AND [vacat*]; and

24 d. that hit on the following search terms (the “Haiti Search Term”) and were dated between
25 Jan. 20, 2025 and Feb. 24, 2025:

26 i. [“Temporary Protected Status” or “TPS” or 1254a] AND [Haiti].

27 The request also included the following in the cover email: “we need this data pulled ASAP
28

1 since the court ordered a quite tight deadline of producing documents by next Monday, May 19.”

2 3. I ran the searches and retrieved approximately 175 MB of data (“the May 12th Data
3 Pull”), which I uploaded to a designated DHS server. I understand that another member of our team
4 transferred the data to the Department of Justice (“DOJ”) via the Justice Enterprise File Sharing
5 (“JEFS”) system on May 12, 2025 at approximately 4:45 pm.

6 4. On May 24, 2025 at approximately 1:16 pm, the Office of General Counsel asked me to
7 double check to ensure that the searches for National TPS Alliance v. Noem were run correctly. Upon
8 double checking my work, I discovered that during the time of the May 12th Data Pull, our search tool,
9 Office O365 Purview Standard, was experiencing serious systematic issues and was not running
10 properly. This impairment of our search tool and the compressed time frame resulted in the following
11 errors in the May 12th Data Pull:

12 a. Mr. Benjamine C. Huffman’s data was not pulled as a custodian;

13 b. The use of “or” rather than “OR” as search operators erroneously resulted in zero hits for
14 the MS Teams chat search for the Haiti Search Term; and

15 c. The use of “or” rather than “OR” as search operators erroneously resulted in zero hits for
16 the Calendar and OneDrive search for the Haiti Search Term.

17 5. On May 25, 2025, I redid the searches for the Initial Request correcting the errors above,
18 which resulted in approximately 334 MB of cumulative data (May 25th Data Pull). I understand that
19 another member of our team transferred the data to DOJ via the Justice Enterprise File Sharing (JEFS)
20 system on May 27, 2025 at approximately 10:00 am.

21 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
22 correct to the best of my knowledge.

23 Executed on: May 27, 2025

24 KEVIN A
25 MARBRAY

Digitally signed by KEVIN
A MARBRAY
Date: 2025.05.27
12:03:08 -04'00'

26 Kevin Marbray
27 Network Operations Security Branch
28 Data Acquisition Manager, Office of
the Chief Information Officer,
Department of Homeland Security

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